

The State Board of Education (SBOE) proposes an amendment to §74.38, concerning requirements for instruction in cardiopulmonary resuscitation (CPR). The proposed amendment would implement House Bill (HB) 4375, 88th Texas Legislature, Regular Session, 2023, by requiring instruction in the use of an automated external defibrillator (AED) in addition to instruction in CPR for students in Grades 7-12.

**BACKGROUND INFORMATION AND JUSTIFICATION:** In 2013, the 83rd Texas Legislature, Regular Session, passed HB 897, amending Texas Education Code (TEC), §28.0023, to require that the SBOE include instruction in CPR for students in Grades 7-12. The legislation required school districts and open-enrollment charter schools to provide instruction in CPR and for students to receive the CPR instruction at least once before graduation. TEC, §38.017, requires school districts and open-enrollment charter schools to make available at each campus at least one AED.

Section 74.38 requires school districts and open-enrollment charter schools to provide instruction in CPR to each student in Grades 7-12 at least once before graduation from high school. The instruction is permitted to be provided as part of any course.

In 2023, the 88th Texas Legislature, Regular Session, passed HB 4375, which further amended TEC, §28.0023, to add instruction in the use of an AED to the requirements for instruction in CPR. The legislation specified that the SBOE must require districts and charter schools to provide instruction in the use of an AED to students in Grades 7-12. Additionally, the legislation added the requirement that CPR instruction must include training in CPR techniques and the use of AEDs.

The proposed amendment would align with the requirements of HB 4375 by requiring instruction in the use of an AED beginning with students who enter Grade 7 in the 2024-2025 school year.

The SBOE approved the proposed amendment for first reading and filing authorization at its February 2, 2024 meeting.

**FISCAL IMPACT:** Monica Martinez, associate commissioner for standards and programs, has determined that for the first five years the proposal is in effect, there are no additional costs to state or local government required to comply with the proposal.

**LOCAL EMPLOYMENT IMPACT:** The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

**SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT:** The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis specified in Texas Government Code, §2006.002, is required.

**COST INCREASE TO REGULATED PERSONS:** The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

**TAKINGS IMPACT ASSESSMENT:** The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

**GOVERNMENT GROWTH IMPACT:** Texas Education Agency (TEA) staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand an existing regulation by requiring that school districts and charter schools provide instruction in the use of an AED to students in Grades 7-12.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not limit or repeal an existing regulation; would not increase or decrease

the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

**PUBLIC BENEFIT AND COST TO PERSONS:** Ms. Martinez has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be establishing a rule for school districts to implement instruction in the use of an AED in addition to instruction in CPR for students in Grades 7-12, which could possibly save lives. There is no anticipated economic cost to persons who are required to comply with the proposal.

**DATA AND REPORTING IMPACT:** The proposal would have no data or reporting impact.

**PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS:** TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

**PUBLIC COMMENTS:** The public comment period on the proposal begins March 1, 2024, and ends at 5:00 p.m. on April 1, 2024. A form for submitting public comments is available on the TEA website at <https://tea.texas.gov/about-tea/laws-and-rules/sboe-rules-tac/proposed-state-board-of-education-rules>. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in April 2024 in accordance with the SBOE board operating policies and procedures. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on March 1, 2024.

**STATUTORY AUTHORITY.** The amendment is proposed under Texas Education Code (TEC), §28.0023, as amended by House Bill 4375, 88th Texas Legislature, Regular Session, 2023, which requires the State Board of Education to require by rule instruction in cardiopulmonary resuscitation and the use of an automated external defibrillator for students in Grades 7-12.

**CROSS REFERENCE TO STATUTE.** The amendment implements Texas Education Code, §28.0023, as amended by House Bill 4375, 88th Texas Legislature, Regular Session, 2023.

<rule>

**§74.38. Requirements for Instruction in Cardiopulmonary Resuscitation (CPR) and Use of an Automated External Defibrillator (AED) .**

- (a) A school district or an open-enrollment charter school shall provide instruction to students in Grades 7-12 in cardiopulmonary resuscitation (CPR) and the use of an automated external defibrillator (AED) . The instruction:
- (1) may be provided as a part of any course; and
  - (2) shall ~~must~~ be provided to each student at least once before graduation from high school.
- (b) CPR instruction shall include training for students in CPR techniques and the use of an AED.
- (c) ~~(b)~~ The training shall have ~~[CPR instruction must include training that has]~~ been developed:
- (1) by the American Heart Association or the American Red Cross; or
  - (2) using nationally recognized, evidence-based guidelines for emergency cardiovascular care and incorporating psychomotor skills to support the instruction.
- (d) ~~(e)~~ A school district or an open-enrollment charter school may use emergency medical technicians, paramedics, police officers, firefighters, representatives of the American Heart Association or the American Red Cross, teachers, other school employees, or other similarly qualified individuals to provide CPR instruction and training under this section. Except as specified in subsection (c) ~~(d)~~ of this section, an instructor of this training is not required to be certified in CPR.

- (e) ~~(d)~~ Instruction provided under this section is not required to result in certification by a student in CPR or the use of an AED . If instruction is intended to result in certification in CPR or the use of an AED , the course instructor must be authorized to provide the instruction by the American Heart Association, the American Red Cross, or a similar nationally recognized association.
- (f) ~~(e)~~ A school district or an open-enrollment charter school may waive the requirement under this section for a student ~~[s]~~ who ~~is~~ due to a disability, is unable to complete the requirement. The determination regarding a student's ability to complete the CPR or AED requirements ~~[requirement]~~ will be made by:
- (1) the student's ARD committee if the student receives special education services under ~~[the]~~ Texas Education Code (TEC), Chapter 29, Subchapter A; or
  - (2) the committee established for the student under Section 504, Rehabilitation Act of 1973 (29 United States Code, §794) if the student does not receive special education services under ~~[the]~~ TEC, Chapter 29, Subchapter A, but is covered by the Rehabilitation Act of 1973.
- (g) ~~(f)~~ The requirement to receive instruction in CPR ~~[This section]~~ applies to any student who entered Grade 7 in the 2010-2011 school year and thereafter.
- (h) The requirement to receive instruction in the use of an AED applies to any student who entered Grade 7 in the 2024-2025 school year and thereafter.